THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION Nos.9335 AND 12452 OF 2007

DATED: 07-09-2007

WP.No.9335 OF 2007

BETWEEN

Peri Shankar Sharma,
S/o. Peri Satyanarayana Sharma,
Occ: Advanced Farming,
R/o.11-124, Main Road Bandaru Lanka,
Amalapuram, East Godavari District.

...PETITIONER

AND

Government of Andhra Pradesh,
Rep. by its Revenue Secretary,
Secretariat Buildings, Hyderabad
and others.

...RESPONDENTS

WP.No.12452 OF 2007

BETWEEN

Kallakuri Bhaskara Rao,
S/o. Venkateswara Rao,
R/o. D.No.4-1-42/3,
S.B.I. Colony, Bhupaiah
Agraharam, Amalapuram,
East Godavari District and another.

...PETITIONERS

AND

The District Collector,
East Godavari District at Kakinada
and others.

…RESPONDENTS

COMMON ORDER:

WP.No.9335 of 2007 has been filed against the resolution dated 03.11.2006 passed by the third respondent – Gram Panchayat resolving to construct a fresh water storage tank over an extent of Ac.13.16 cents of land in Sy.Nos.70/1, 169 and 170/2 belonging to the petitioners herein. It is stated that the resolution has been passed against the principles of natural justice and contrary to law and

the action of the respondents in trying to dispossess him from the lands in question is illegal and arbitrary.

2. WP.No.12452 of 2007 has been filed to declare the action of the respondents in trying to dispossess the petitioners from their lands in Sy.Nos.170/1 & 170/2 and 170/3 admeasuring Ac.2.55 cents and Ac.1.45 cents respectively situated at Bandaru Lanka village, Amalapuram, East Godavari District, as illegal and arbitrary.

3. Counter has been filed on behalf the Bandaru Lanka Gram Panchayat – fourth respondent stating that the population of the village is 11,693 and the village is florin affected area and many of the villagers are being suffering from florosis and there is acute shortage of drinking water. Therefore, the Government sanctioned an amount of Rs.286.07 lakhs vide G.O.Ms.No.287 dated 05.08.2005 for construction of protected Drinking Water Project and pursuant to the said sanction, the Engineering Department, Panchayat Raj identified an extent of Ac.13.16 cents of private agricultural land suitable for construction of storage tank. Accordingly, the Gram Panchayat resolved requesting the Land Acquisition authorities to acquire the land and construct the water storage tank as per the order of the Government. It is stated that irrespective of the resolution of the Gram Panchayat it is open for the other respondents to acquire any other land by following due process prescribed

under the Land Acquisition Act and in fact, the Land Acquisition Officer – cum – Revenue Division Officer, Amalapuram vide letter dated 21.12.2007 requested the Executive Engineer, RWS Kakinada, to deposit an amount of Rs.37,15,974/- for payment of compensation to the land sought to be acquired. It is further stated that so far neither notification under Section 4(1) of the Land Acquisition Act has been issued nor declaration under Section 6 of the Act has been given. Therefore, the apprehension of the petitioners that without acquiring their lands the respondents are trying to dispossess them is without any basis and incorrect. It is further stated that the land acquisition proceedings are in the initial stage and no notification or declaration has been made, therefore, the writ petitions are premature.

4. Having regard to the facts and circumstances of the case,
the respondents are directed not to dispossess the petitioners without following due process of law and it is always open for the respondents to acquire the lands in accordance with law for the construction of water tank.

The writ petitions are accordingly disposed of. There shall be no order as to costs.

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V. ESWARAIAH, J

September 7, 2007
DSK